



Commonwealth of Virginia

VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY

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September 22, 2021

Mr. Randall Eades
City Manager
Bristol Virginia Integrated Solid Waste Facility
300 Lee Street
Bristol, Virginia 24201

NOTICE OF VIOLATION

Re: NOV No. ASWRO001691-003
Bristol Virginia Integrated Solid Waste Facility – 2655 Valley Drive, Bristol, VA
Registration No. 11184

Dear Mr. Eades:

This letter notifies you of information upon which the Department of Environmental Quality (Department or DEQ) may rely in order to institute an administrative or judicial enforcement action. Based on this information, DEQ has reason to believe that the City of Bristol Virginia may be in violation of the Air Pollution Control Law and Regulations at the Bristol Virginia Integrated Solid Waste Management Facility.

This letter addresses conditions at the facility named above, and also cites compliance requirements of the Air Pollution Control Law and Regulations. Pursuant to Va. Code § 10.1-1309 (A)(vi), this letter is not a case decision under the Virginia Administrative Process Act, Va. Code § 2.2-4000 *et seq.* (APA). The Department requests that you respond **within 10 days of the date of this letter.**

OBSERVATIONS AND LEGAL REQUIREMENTS

On July 2, 2021, the City of Bristol Virginia submitted a letter to DEQ requesting authorization to operate multiple landfill gas wells at temperatures higher than 131 °F. In a letter to EPA Region 3, dated July 26, 2021, the City of Bristol Virginia requested authorization to operate landfill gas wells at higher operating temperatures and use gas treatment alternatives. On August 23, 2021, EPA issued authorization to the City of Bristol Virginia to operate landfill gas wells (#s 35, 39, 40, 46 and 47) at higher operating

temperatures and utilize gas treatment alternatives at the Bristol Integrated Solid Waste facility for up to one year.

On September 8, 2021, DEQ staff conducted a Partial Compliance Evaluation (PCE) review of the landfill gas well data from the semi-annual NSPS, semi-annual SSM and Title V semi-annual monitoring reports for the first half of 2021 dated August 27, 2021 and received on August 31, 2021. The following describes the staff's factual observations and identifies the applicable requirements.

1. *Observation:* Gas Well Head Temperatures - The August 27, 2021 semi-annual NSPS report indicated there were 7 instances observed where landfill gas wellhead temperatures exceeded 131 °F for longer than 15 days. Since gas well head temperatures exceeded 131 °F for more than 15 days and the landfill gas system was not expanded as required by 40 CFR 60.755(a)(5), the corrective action requirements were not met and the landfill gas well temperature operational standard as required by 40 CFR 60.753(c) was exceeded.

*** Permit Condition No. 2.e. of the Title V Permit effective March 13, 2016 and Title V Permit effective March 13, 2021 and Permit Condition No. 2.e. of the New Source Review Permit approved July 7, 2003 (amended November 13, 2003, October 13, 2004 and September 30, 2015) state in part: "The permittee shall construct and operate a landfill gas (LFG) collection and control system which: (e) Is operated with each interior wellhead in the collection system having a landfill gas temperature less than 55 °C..."**

*** Permit Condition No. 11 of the Title V Permit effective March 13, 2016 states: "If monitoring demonstrates that the requirements of Condition 2 of this permit are not being met, corrective actions shall be taken as specified in 40 CFR 755(a)(3) through (a)(5) or 40 CFR 60.755(c). If corrective actions are taken as specified in 40 CFR 60.755(c)(4) the monitored exceedance is not a violation of the operational requirements of this permit or 40 CFR 60, Subpart WWW."**

*** Permit Condition No. 8 of the New Source Review Permit approved July 7, 2003 (as amended November 13, 2003, October 13, 2004 and September 30, 2015) states: " If monitoring demonstrates that the requirements of Condition 2 are not being met, corrective actions shall be taken as specified in 40 CFR 60.755(a)(3) - (a)(5) or 40 CFR 60.755(c). If corrective actions are taken as specified in 40 CFR 60.755(c)(4), the monitored exceedance is not a violation of the operational requirements of this permit or 40 CFR 60 Subpart WWW."**

*** 40 CFR 60.753(g) states: "Each owner or operator of an MSW landfill with a gas collection and control system used to comply with the provisions of §60.752(b)(2)(ii) of this subpart shall...(g) If monitoring demonstrates that the operational requirements in paragraphs (b), (c), or (d) of this section are not met, corrective action shall be taken as specified in §60.755(a)(3) through (5) or § 60.755(c) of this subpart. If corrective actions are taken as specified in §60.755, the monitored exceedance is not a violation of the operational requirements in this section."**

2. *Observation:* Gas Well Head Oxygen Concentrations – The August 27, 2021 semi-annual NSPS report indicated there were 44 instances of oxygen concentrations greater than 5% in landfill gas wellheads that were not returned to compliance within 15 days. The landfill gas collection system was not expanded as required when landfill gas well oxygen exceedances occurred in multiple gas wells

for more than 15 days. Since the landfill gas system was not expanded as required by 40 CFR 60.755(a)(3), the corrective action requirements were not met and the landfill gas well oxygen operational standard as required by 40 CFR 60.753(c) was exceeded.

*** Permit Condition No. 2.e.ii. of the Title V Permit effective March 13, 2016 and Title V Permit effective March 13, 2021 and Permit Condition No. 2.e.ii. of the New Source Review Permit approved July 7, 2003 (amended November 13, 2003, October 13, 2004 and September 30, 2015) state in part: “The permittee shall construct and operate a landfill gas (LFG) collection and control system which: (e) Is operated with each interior wellhead in the collection system having a landfill gas temperature less than 55 °C and...: ii. An oxygen content less than 5% as determined by an oxygen meter using EPA Method 3A or 3C (reference 40 CFR 60 Appendix A)...”**

*** Permit Condition No. 11 of the Title V Permit effective March 13, 2016 states: “If monitoring demonstrates that the requirements of Condition 2 of this permit are not being met, corrective actions shall be taken as specified in 40 CFR 755(a)(3) through (a)(5) or 40 CFR 60.755(c). If corrective actions are taken as specified in 40 CFR 60.755(c)(4), the monitored exceedance is not a violation of the operational requirements of this permit or 40 CFR 60 Subpart WWW.”**

*** Permit Condition No. 8 of the New Source Review Permit approved July 7, 2003 (as amended November 13, 2003, October 13, 2004 and September 30, 2015) states: “ If monitoring demonstrates that the requirements of Condition 2 are not being met, corrective actions shall be taken as specified in 40 CFR 60.755(a)(3) - (a)(5) or 40 CFR 60.755(c). If corrective actions are taken as specified in 40 CFR 60.755(c)(4), the monitored exceedance is not a violation of the operational requirements of this permit or 40 CFR 60 Subpart WWW.”**

*** 40 CFR 60.753(g) states: “Each owner or operator of an MSW landfill with a gas collection and control system used to comply with the provisions of §60.752(b)(2)(ii) of this subpart shall...(g) If monitoring demonstrates that the operational requirements in paragraphs (b), (c), or (d) of this section are not met, corrective action shall be taken as specified in §60.755(a)(3) through (5) or § 60.755(c) of this subpart. If corrective actions are taken as specified in §60.755, the monitored exceedance is not a violation of the operational requirements in this section.”**

3. *Observation:* Gas Well Head Pressures - The August 27, 2021 semi-annual NSPS report indicated there were 25 instances of non-negative landfill gas wellhead pressures that were not returned to compliance within 15 days. The landfill gas collection system was not expanded as required when multiple landfill gas wells experienced positive pressures for more than 15 days. Since the landfill gas system was not expanded as required by 40 CFR 60.755(a)(3), the corrective action requirements were not met and the landfill gas well pressure operational standard as required by 40 CFR 60.753(b) was exceeded.

*** Permit Condition No. 2.d. of the Title V Permit effective March 13, 2016 and Title V Permit effective March 13, 2021 and Permit Condition No. 2.d. of the New Source Review Permit approved July 7, 2003 (amended November 13, 2003, October 13, 2004 and September 30, 2015) state: “The permittee shall construct and operate a landfill gas (LFG) collection and control system which: d. Is operated with each wellhead under negative pressure except as**

provided in 40 CFR 60.753(b)."

*** Permit Condition No. 11 of the Title V Permit effective March 13, 2016 states: "If monitoring demonstrates that the requirements of Condition 2 of this permit are not being met, corrective actions shall be taken as specified in 40 CFR 755(a)(3) through (a)(5) or 40 CFR 60.755(c)(4). If corrective actions are taken as specified in 40 CFR 60.755(c)(4), the monitored exceedance is not a violation of the operational requirements of this permit or 40 CFR 60, Subpart WWW."**

*** Permit Condition No. 8 of the New Source Review Permit approved July 7, 2003 (as amended November 13, 2003, October 13, 2004 and September 30, 2015) states: " If monitoring demonstrates that the requirements of Condition 2 are not being met, corrective actions shall be taken as specified in 40 CFR 60.755(a)(3) - (a)(5) or 40 CFR 60.755(c). If corrective actions are taken as specified in 40 CFR 60.755(c)(4), the monitored exceedance is not a violation of the operational requirements of this permit or 40 CFR 60, Subpart WWW."**

*** 40 CFR 60.753(g) states: "Each owner or operator of an MSW landfill with a gas collection and control system used to comply with the provisions of §60.752(b)(2)(ii) of this subpart shall...(g) If monitoring demonstrates that the operational requirements in paragraphs (b), (c), or (d) of this section are not met, corrective action shall be taken as specified in §60.755(a)(3) through (5) or § 60.755(c) of this subpart. If corrective actions are taken as specified in §60.755, the monitored exceedance is not a violation of the operational requirements in this section."**

4. *Observation:* Monitoring - The August 27, 2021 semi-annual NSPS report indicated there were 35 instances where landfill gas wellheads were not monitored for temperature, oxygen or pressure.

*** Permit Condition No. 9 of the Title V Permit effective March 13, 2016 and Title V Permit effective March 13, 2021 and Permit Condition No. 6 of the New Source Review Permit approved July 7, 2003 (amended November 13, 2003, October 13, 2004 and September 30, 2015) state in part: "The operation of the gas collection system shall be monitored as follows: (a) The following items shall be monitored each month: (i) Gauge pressure in the collection header at each individual well. (ii) LFG temperature in each well. (iii) Nitrogen concentration or oxygen concentration in each well..."**

5. *Observation:* Visible Emission Observations - The August 27, 2021 semi-annual SSM report indicated the landfill gas flare operated periodically each month from January 1, 2021 through June 30, 2021. Visible emission observations were not conducted on the flare for the months of January 2021 and February 2021.

*** Permit Condition No. 13 of the Title V Permit effective March 13, 2016 and Permit Condition 14 Title V Permit effective March 13, 2021 state in part: "The permittee shall perform a visible emissions observation on the open flare once each calendar month when the unit is operating..."**

6. *Observation:* Gas Control and Collection System Expansion – During the first half of 2021, the gas collection and control system, experienced temperature, oxygen and pressure exceedances for greater than 15 days. During the same period, multiple landfill gas wells were not monitored

monthly for temperature, oxygen and pressure. The gas collection and control system was modified during the first half of 2021, but has not been expanded.

*** Permit Condition No. 7 of the Title V Permit effective March 13, 2016 and Title V Permit effective March 13, 2021 state: “Except where this permit is more restrictive than the applicable requirement, the MSW landfill, P01, shall be constructed and operated in compliance with the requirements of 40 CFR Part 60 Subpart WWW, 9VAC5-40 Article 43.1 and 40 CFR Part 63 Subpart AAAA.”**

*** Permit Condition No. 12 of the New Source Review Permit approved July 7, 2003 (amended November 13, 2003, October 13, 2004 and September 30, 2015) states: “Except where this permit is more restrictive than the applicable requirement, the municipal solid waste landfill as described in the Introduction shall be operated in compliance with the requirements of 40 CFR 60, Subpart WWW.”**

***9 VAC 5-170-160(A) – (Conditions on Approvals) of the Commonwealth of Virginia State Air Pollution Control Board Regulations for the Control and Abatement of Air Pollution states in part: “The board may impose conditions upon permits and other approvals which may be necessary to carry out the policy of the Virginia Air Pollution Control Law, and which are consistent with the regulations of the board. Except as otherwise specified, nothing in this chapter shall be understood to limit the power of the board in this regard. If the owner or other person fails to adhere to the conditions, the board may automatically cancel the permit or approvals. This section shall apply, but not be limited, to approval of variances, approval of control programs, and granting of permits.”**

***Va. Code § 10.1-1322(A) gives the Department the authority to issue, amend, revoke or terminate and reissue permits, and failure to comply with any condition of a permit is considered a violation of the Air Pollution Control Law.**

ENFORCEMENT AUTHORITY

Va. Code § 10.1-1316 of the Air Pollution Control Law provides for an injunction for any violation of the Air Pollution Control Law, the Air Board regulations, an order, or permit condition, and provides for a civil penalty up to \$32,500 per day of each violation of the Air Pollution Control Law, regulation, order, or permit condition. In addition, Va. Code §§ 10.1-1307 and 10.1-1309 authorizes the Air Pollution Control Board to issue orders to any person to comply with the Air Pollution Control Law and regulations, including the imposition of a civil penalty for violations of up to \$100,000. Also, Va. Code § 10.1-1186 authorizes the Director of DEQ to issue special orders to any person to comply with the Air Pollution Control Law and regulations, and to impose a civil penalty of not more than \$10,000. Va. Code §§ 10.1-1320 and 10.1-1309.1 provide for other additional penalties.

The Court has the inherent authority to enforce its injunction, and is authorized to award the Commonwealth its attorneys' fees and costs.

FUTURE ACTIONS

DEQ staff wishes to discuss all aspects of their observations with you, including any actions needed to ensure compliance with state law and regulations, any relevant or related measures you plan to

take or have taken, and a schedule, as needed, for further activities. In addition, please advise us if you dispute any of the observations recited herein or if there is other information of which DEQ should be aware. In order to avoid adversarial enforcement proceedings, the City of Bristol Virginia may be asked to enter into a Consent Order with the Department to formalize a plan and schedule of corrective action and to settle any outstanding issues regarding this matter, including the assessment of civil charges.

In the event that discussions with staff do not lead to a satisfactory conclusion concerning the contents of this letter, you may elect to participate in DEQ's Process for Early Dispute Resolution. Also, if informal discussions do not lead to a satisfactory conclusion, you may request in writing that DEQ take all necessary steps to issue a final decision or fact finding under the APA on whether or not a violation has occurred. For further information on the Process for Early Dispute Resolution, please see Agency Policy Statement No. 8-2005 posted on the Department's website under "Permit & Regulations," "Enforcement," and "Resources" (<https://www.deq.virginia.gov/permits-regulations/enforcement>) or ask the DEQ contact listed below.

Please contact me at (276) 676-4829 or crystal.bazyk@deq.virginia.gov **within 10 days of the date of this letter** to discuss this matter.

Sincerely,



Crystal C. Bazyk
Enforcement and Air Compliance Monitoring Manager

cc: Jeff Hurst - Regional Director